


June 17, 2006

Michael Thomas
Assistant Executive Officer
Central Coast Regional Water Board
895 Aerovista Place, Ste. 101
San Luis Obispo, CA 93401

RE: Proposed Cease and Desist Orders against Individuals in Los Osos – Prosecution's Case Issues

Dear Mr. Thomas:

On May 18, 2006, the Central Coast Regional Water Control Board (RWQCB) sent out a request for briefs with regard to five specific questions they had. This is my brief in response to that request.

1. Yes. The prosecution's case must be stricken in its entirety. No, it cannot be stricken to some lesser degree.

Ms. Okun was involved in the prosecution from the very start, therefore her influence in the prosecution's case and in the hearings is quite pervasive. As per her letter, the reason Ms. Okun stepped aside had to do with removing a conflict of interest created by both advising the RWQCB and prosecuting the individuals from Los Osos. It seems very apparent to me that this conflict cannot be ended unless the prosecutions are stopped and restarted from the very beginnings.

Additionally, the Quintero and Morongo cases cited by Ms. Okun state the purpose of removing counsel from a prosecution team is because they regularly advise the Board, and that the advisory position is incompatible with the prosecutorial role. When you follow this logic, it becomes quite clear that Mr. Briggs should also recuse himself from the prosecution team.

Ms. Okun and Mr. Briggs have already tainted the entire prosecution. The RWQCB has now heard the entire prosecution case from people who have tainted the prosecution. It follows that the entire Board should also step aside from hearing these issues as they have already been affected by hearing these tainted arguments. One possible solution would be for a different Regional Board to hear this case. You could liken this to a change of venue for a criminal case. Although it sounds like a heavy burden, it is the only way to ensure due process.

Question 2. Yes. If the prosecution is required to start over they should be allowed to present new evidence.

Question 3. Yes. If the prosecution is allowed to present new evidence, the defendants (designated parties) should – must – be afforded the same rights.

Question 4. Yes. Again, what is fair for one is fair for all. The LOCSD should also be permitted to start its case over and present new, additional evidence at that time.

Question 5. Understood. No special circumstances apply to us at this time.

All parties involved should have the benefit of the latest available science to present their case. This includes the RWQCB, the Los Osos residents, and the LOCSD. In this fashion ALL are best equipped to make the best decision possible based on the best science available. This will in turn flush out the best available alternatives (highest return, lowest cost, least amount of intrusion and inconvenience, etc.) to resolve these water issues and grant all of us the cleanest water possible.

Thank you for taking the time to review my material.

Sincerely,

[REDACTED]